IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 12535 of 1993

Between:

1 Jangam Balwanth Reddy S/o China Balreddy
R/o Hyderabad
2 Jangam Chandrapal Reddy S/o China Balreddy
R/o Hyderabad
3 Timmakka Yadayya S/o late Agayya
R/o Hyderabad
4 S. Butchi Reddy S/o S. Agi Reddy
R/o Hyderabad
5 S.Penta Reddy S/o S. Agi Reddy
R/o Hyderabad
6 P. Ravinder Reddy S/o late P. Dharma Reddy
R/o Hyderabad
7 D. Ramulu S/o Pentaiah
R/o Shamshergunj, Hyderabad
8 C. Ram Reddy S/o Malla Reddy
R/o Padmanagar Colony, Hyderabad

..... PETITIONERS

AND

1 Govt. of A.P. rep. by Revenue Secretary,
Secretariat buildings, Hyderabad
2 District Collector, Hyderabad
3 Mandal Revenue Officer Charminar, Hyderabad
4 Commissioner of police, Purnahaveli, Hyderabad
5 Nawab Ali Barkat Ali Khan Bahadur Nizam of Hyderabad,
rep.of HEH Nizams GPA Shahid Hussain S/o Saheer Hussain
Humayun Nagar, Hyderabad
6 Special Officer and Competent Authority, U.L.C., Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction particularly one in the nature of Writ of Mandamus, declaring that petitioners lands of 100 acres situated in S.No.266/1 of Bandlaguda (V), outside the compound wall of Falaknama Palace in Hyderabad, West Division is not excess vacant land under Sec 8(4) & 10(1) of the Urban Land Ceilings Act and for quashing the proceedings of the Competent Authority-the 6th respondent herein his proceedings No.E1/10122/76 dt: 17-3-1987 as confirmed by the Appellate Authority, the 7th respondent in UC1/2350/87 and UG/2443/87 dt: 31-7-93.

Counsel for the Petitioners:MR.B.V.SUBBAIAH

Counsel for the Respondents: GP FOR REVENUE

The Court made the following :

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THE HON'BLE SRI JUSTICE B.PRAKASH RAO

W.P.NO.12535 OF 1993

ORDER:

The petitioners herein claiming to be in possession of the land of Acs.100.00 in Sy.No.266/1 situated at Bandlguda Village, Hyderabad, West Division in Rangareddy District, filed this writ petition, inter alia, seeking to assail the proceedings of the 6th respondent herein dated 17-03-1987, as confirmed by the appellate authority by proceedings dated 31-07-1993, as bad illegal and void.

The case of the petitioners in brief is that there is a land total extent of Ac.274.02 guntas in the said survey number, out of which in an extent of Ac.122.12 guntas there exists Nizams palace, known as Falaknama palace, which is surrounded by a compound wall and which originally belongs to the then Nizam Mr.Mir Osman Ali Khan, who had gifted the said palace to his grand son prince Mukhram Jah under a registered gift deed dated 21-03-1957. However, the balance extent, remaining outside the said palace, to an extent of Ac.100.00, has been in possession and enjoyment of the petitioners and their ancestrals all along and they have been cultivating the said land. Therefore, the provisions of the Urban Land Ceiling Act, 1976, have no application and since such land is being used for agricultural purpose, the same has to be excluded. Hence, they did not file any declaration. However, in pursuance of a declaration filed by the G.P.A. of the prince Mukhram Jha under Section 6 of the Act, wherein only an extent of Ac.122.12 guntas were shown, covered by the said palace. The 6th respondent herein has included the other extent of Ac.100.00, which is outside the compound wall, though in occupation of the petitioners and accordingly the prince Mukhram Jha was declared as surplus and an attempt was made to evict the petitioners by demolishing houses, which have been constructed and in occupation by them. On enquiry, it was intimated to them that after the determination of the surplus, notices under Section 10(1) and 10(3) of the said Act have been issued and therefore the steps are been taken to

take possession of the alleged surplus land. The petitioners thereupon had filed W.P.No.2731 of 1983 and ultimately the Division Bench of this Court has quashed the said notifications with direction to conduct fresh enquiry by issuing the notice again under Section 10 (1) of the Act and consider the objections and pass orders accordingly. Accordingly, notices have been issued to the petitioners. Though petitioners filed comprehensive objections claiming the said land is in their possession, supported by the occupancy certificates issued under the provisions of the A.P. (Telangana Area) Abolition of Inams Act, 1955, the 6th respondent authority rejected their claim erroneously. Hence, the Writ Petition.

Sri C.Hanumantha Rao, the learned Counsel appearing for the petitioners, submits that having regard to the directions given by this Court earlier, it is not open for the respondents herein to reject the claim of the petitioners on the ground that there is no power to go into such claim at the stage of issuance of notices under Section 10(1) of the Act or 10(3) of the Act. Further, their claim is perfectly substantiated by the certificates and possession and therefore the impugned orders are liable to be set aside.

The learned Government Pleader appearing on behalf of the respondents sought to sustain the orders on the ground that apart from the question, whether such claims can be considered on merits, in terms of the powers as conferred under the Act, the authorities did go into the claim and also held that the petitioners have failed to establish their possession and enjoyment and also held that the certificates purported to have been issued under the provisions of the A.P. (Telangana Area) Abolition of Inams Act are not valid and therefore fresh objections are rightly rejected.

Considering the submissions made on either side and on perusal of the material on record, the question which falls for consideration is, whether the claims as made by the petitioners in response to the notices issued under Sections 10(1) and 10(3) of the said Act is sustainable either in law or on facts.

There is no dispute to the fact that the petitioners did not file any declaration in terms of the provisions of the Urban Land (Ceiling and Regulation) Act, 1976. However, they claim that they have been in possession of the land to an extent of Acs.100.00 in the aforesaid survey number. In the very same survey number there exists palace belongs to Nizams, which known as Falaknama, which is alleged to have been

gifted by the then Nizam to the prince Mukhram Jha by the registered gift deed dated 21-03-1957. On behalf of the prince Mukhram Jha a declaration was filed showing only an extent of Ac.122.12 guntas, which is covered by the falaknama palace and within the compound wall. Admittedly, no doubt, the other extent remaining outside the compound wall was not shown in the said declaration. However, after an enquiry, the 6th respondent herein included the extent, remaining outside the compound wall, and declared the said declarant as the surplus landholder. Accordingly, notices have been issued under Sections 10(1) and 10(3) of the said Act and admittedly the petitioners intervened by filing W.P.No.2731 of 1983 and this Court having found that the petitioners are claiming for the first time, set aside the said notices and directed for issuance of fresh notice under Section 10(1) of the said Act and to consider their objections. In terms thereof notices have been issued and the petitioners have filed their objections by setting up their claim on the long possession and also on the occupancy certificates purported to have been issued under the provisions of the A.P. (Telangana Area) Abolition of Inams Act, 1955. On perusal of orders of both the authorities, it is seen that the authorities though expressed their inability to go into such claim at the stage of issuance of 10(1) notice, but however they have considered the petitioners claim in regard to the possession and also the certificates relied on by them. In regard to the possession, it was categorically found that they have not established the same by any cogent evidence. The main plank on which petitioners rested their claim is the occupancy certificates issued under the provisions of A.P. (Telangana Area) Abolition of Inams Act, 1955, which has been observed that the said certificates are not valid having regard to the fact that they appears to have been issued by an authority, which has no jurisdiction over the area. It has been stated that consequent upon the formation of Rangareddy District, the question of issuance of any such certificate by an authority falling within the Rangareddy District does not arise. There is neither serious challenge in regard to the said observation or the findings given by the authorities, nor there is any material to show, as to how such certificates would validly issued by them. Even in regard to the fact whether such land constitutes an inam, there is no material, as rightly observed by the authorities below. Admittedly, entire land belongs to the then Nizam, wherein there appears a palace, which has been gifted to the prince Mukhram Jha. Having regard to the same, it cannot be said that the said land in any way constitute an inam land, but apparently, private property of the then Nizam, accordingly the same shown in the declaration and

ultimately the other extent which has not shown by the declarant was sought to be included. There is no dispute to the proposition in response to any notice issued under Section 10(1) of the said Act, and any such objections forthcoming, the same had to be decided on merits and if such objection is upheld, the authorities cannot proceed against the same towards surplus. However, in this case, prima facie, the petitioners had failed to prove, as observed by the authorities, either their possession or correctness of their claim by any valid reasons under Section A.P. (Telangana Area) Abolition of Inams Act, 1955. Having regard to such finding of fact as arrived at by both the authorities below and especially in the absence of any cogent material on behalf of the petitioners, the petitioners claim cannot be upheld either on facts or on the scope of the powers as conferred under the Act. In view of the same, I do not find any merits in the petitioners' claim, nor the pleas as raised.

In the circumstances, it has to be held that though authorities are competent enough to go into the correctness of the claims on its own, however, the petitioners having failed to establish the same, they cannot claim any right, title or interest of whatsoever nature.

Accordingly, the writ petition is dismissed. No costs.

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B.PRAKASH RAO, J.

Dated 27-10-2004.

SKMR

To

1.The Revenue Secretary, Govt. of Andhra Pradesh,

Secretariat Building, Hyderabad.

2.The District Collector, Hyderabad.

3.The Mandal Revenue Officer, Charminar,

Hyderabad.

4.The Commissioner of Police, Puranahaveli,

Hyderabad.

5. The Special Officer and Competent Authority,

U.L.C., Hyderabad.

6.2CCs to G.P. for Revenue, High Court Buildings, Hyderabad. (OUT).

7.2CD copies